

8:26 am, Jul 07, 2023

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES OF AMERICA, . Criminal No. 22-cr-00344-GRB-JMW-1
.
Vs. . 100 Federal Plaza
. Central Islip, NY 11722
RAMI SAAB, .
a/k/a RAMI HASAN . DATE: June 5, 2023
.

TRANSCRIPT OF DETENTION HEARING
BEFORE HONORABLE GARY R BROWN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: UNITED STATES ATTORNEYS OFFICE
EASTERN DISTRICT OF NEW YORK
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1 THE CLERK: Calling case, 22-criminal-344 USA versus
2 Rami Saab. Counsel please state your appearance for the record.

3 MR. MAFFEI: Michael Maffei and Anthony Bagnuola for
4 the United States. Good afternoon, Your Honor.

5 THE COURT: Just the use the microphones, because we
6 have somebody on the phone. On the phone, who do we have?

7 MS. KELLMAN: Susan Kellman, good afternoon, Your
8 Honor, for Mr. Saab.

9 THE COURT: Ms. Kellman, good to hear from you. All
10 right, sir, your attorney is on the phone, if you need to talk
11 to her privately at any point, we can arrange a phone call. Do
12 you understand?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Let me go the Government.
15 What are we doing today?

16 MR. MAFFEI: Your Honor, late, earlier in the --
17 actually it was late May, we filed a letter under seal with the
18 Court asking for a warrant of the defendant's arrest based upon
19 what the Government believes are violations of his conditions
20 of release, including as we set forth in that letter, new
21 criminal conduct involving a female victim, a mother of one of
22 his children. I prior to today's proceeding, I did email a
23 copy of that letter, which had previously been ex parte and
24 under seal, to Ms. Kellman so she would have an opportunity to
25 review that before today.

1 The Government at this time, based upon what is set
2 forth in that letter, is asking for the Court to revoke this
3 defendant's bond as at that this point as we set forth in the
4 letter, we do believe the defendant, as we initially set forth
5 at the several initial appearances in this matter, before
6 various magistrate judges, and as was set forth in the original
7 Pretrial Services report, the defendant is a danger to the
8 community, and also a risk of flight.

9 Obviously this new information that we provided to
10 the Court I think highlights his dangerousness and that risk of
11 flight as well, in that he indicates that there's certain
12 things that will not stop him from, I believe that he
13 references his rage in a text message towards the female
14 victim. As well as essentially what amounts to him withholding
15 from this woman her child in another country, forcing her to go
16 there and bring the child back to the United States. Obviously
17 it's his child as well.

18 But I think the idea that this is someone who is
19 abiding by the conditions of release is clearly belied by his
20 conduct. So at this point we're asking for him to be remanded
21 and a permanent order of detention pending trial.

22 THE COURT: Ms. Kellman, what do you want to say?

23 MS. KELLMAN: Good afternoon, Judge, how are you.

24 THE COURT: I'm well, I hope you're well as well.

25 What are we going to do about this situation?

1 MS. KELLMAN: Judge, I think that there's so many
2 different things flying in the air right now, and none of them
3 are really fair to my client. Not the least of which is, I'm
4 learning about this minute by minute as the day goes on. When
5 the day started, or a few hours ago, the Government told me
6 that my client had lied to Pretrial. That he said he went to
7 the hospital, that he wasn't at the hospital. That the agents
8 were at his house. That he wouldn't answer the door.

9 And I since learned that my client notified Pretrial
10 this morning that he had terrible pain. Pretrial told him he
11 could go to the hospital. And again, I have not confirmed any
12 of this, Judge. I mean this all is happening to me within the
13 last hour. And I'm doing the best I can to play catchup.

14 But the notion that -- I mean just something as
15 simple as, and it's not simple if it was true, but it's not,
16 that he held the child outside the country. My understanding
17 is that there was an agreement between the husband the wife,
18 between my client and his wife, the mother of the child, that
19 the child would go to visit relatives out of the country. I
20 don't have -- have not had a chance to put this paperwork
21 together.

22 The notion that he wasn't allowed to go to the
23 hospital is bogus. And in fact he even spoke with Pretrial, and
24 I'm sure Pretrial can confirm this, said that he was going to
25 need an MRI. Pretrial told him that he couldn't do that with

1 his bracelets, that they would try to make arrangements so that
2 he would be able to have the MRI. So the notion that he wasn't
3 at the hospital or didn't need medical care is not true. The
4 notion that he wasn't in touch with Pretrial, is not true.

5 I understand that there's a notarized document with
6 respect to permission to take the child out of the country,
7 which is what started the proceedings in family court. And if
8 the allegations about some kind of threats or whatever to the
9 wife are true, this has been going on for months. NYPD hasn't
10 taken any actions at all. But now the Government is going to
11 notify NYPD and ask them to take action.

12 The Government has wanted this fellow remanded from
13 day one. They were desperate to not have him out. They're sure
14 he's going to flee. He's been out for months and months and
15 months. He hasn't fled. They know where he was. When they
16 went to find him this morning he was home. I even said to the
17 Assistant this morning, what do you mean you can't find him, he
18 has a bracelet on. We don't know if he's still wearing the
19 bracelet. Well he was home and he said the reason he didn't
20 answer the phone or the door was because they had given him
21 medicine in the hospital and that he was sleeping.

22 I think that to (indiscernible-unclear phone
23 connection) this out and to detain somebody on a record that
24 I've not had a chance to review and my client has been
25 (indiscernible) the indictment. I can't even say that I'm

1 prepared to have him arraigned on that today.

2 What I'd ask Your Honor, to hold off on the remand.
3 He isn't well. He hasn't had a chance to pick up the
4 medication that he was told to pick up. He dropped the
5 prescriptions at CVS. I'm told that his wife is going to pick
6 them up. But he doesn't even have the medication that was
7 prescribed to him.

8 I understand that he may have given his discharge
9 papers to the, either the US Marshal or the agent. But again,
10 I've not spoken to my client. So I'm just doing the best I can
11 with as little information as I have. But I think to just try
12 to shove this down everybody's throat at the last minute, is
13 really an outrage.

14 I can't possibly be there this afternoon, and I
15 apologize for that, Judge.

16 THE COURT: That's okay.

17 MS. KELLMAN: I'm in court all day tomorrow in the
18 Eastern District. And I would hate to have him be held in
19 custody because I'm not available. I am happy to come out at
20 the Court's convenience on Wednesday, Thursday or Friday. I
21 just can't be out there this afternoon. The court will be
22 closed by the time I get there. And I'm in court all day
23 tomorrow. But the notion that -- they know where he is. He
24 has a bracelet. The notion that he can't just be in the house
25 until we see the Court, escapes me, Judge.

1 THE COURT: All right, so Ms. Kellman, so I just
2 remember where we are. I believe you came to me a while ago
3 and asked me to change certain circumstances about -- of
4 release based in part on religious practices by this defendant.
5 Am I remembering the right case?

6 MS. KELLMAN: Yes, Judge, you are, and you granted
7 that request. And he followed the Court's order to the letter
8 of the law. He didn't have any problem with it. I made two
9 applications, Judge. One was for the religious, the ability to
10 have dinner with, near his mosque so that he wouldn't have to
11 eat in his car, which was the Government's suggestion. It was
12 a 5:30, if I remember, a 5:30 Ramadan service and an 8:30
13 Ramadan service. And apparently the men in his community all
14 have dinner together in the intervening time.

15 And I asked the Government to consent to allow him to
16 go to restaurants and they would not do that, Pretrial, because
17 they didn't have the authority to do it. And the Government
18 wouldn't consent. Your Honor agreed to let him do it. He did
19 it without incident.

20 THE COURT: Right, but --

21 MS. KELLMAN: In addition to that there was an
22 application for change his, more broadly change his bail
23 conditions to eliminate the bracelet. And Your Honor denied
24 that request.

25 THE COURT: Right. I guess, I was just trying to

1 sort of focus on the situation. I've been sensitive to your
2 requests in the past. But I guess my question is, when I'm
3 looking at a text from this defendant to the woman that's being
4 referred to as Victim 1 by the Government, where he writes, I
5 swear to Allah, and it's on page 6 of the letter, if my father
6 doesn't have the passports tonight both you will be making your
7 biggest mistake with me, and there's no coming back after it.
8 And if you think your family will help you and protect you from
9 my fucking rage, then you will regret it even more because you
10 getting them involved I'm my problem will only hurt them as
11 well.

12 Now, Ms. Kellman, you know the standard, you've been
13 practicing as long as I have. How can I not find this to be a
14 potential risk to members of the community?

15 MS. KELLMAN: Well, Your Honor, there is an order in
16 place, protective order in place. He hasn't violated the
17 protective order, that I'm aware of. And he has a bracelet on.
18 If Your Honor says he can't leave the house, then he can't
19 leave the house. At least until Thursday -- Wednesday,
20 Thursday or Friday at Your Honor's convenience when I can at
21 least -- I mean I'm processing all of this in the last ten
22 minutes. The Government's letter, my client's wife is calling,
23 my client's son is calling. You know, they say things like, he
24 says his children are -- his son is in, is out of the country,
25 his son is in college in Nassau County. So there's a lot of

1 stuff flying around here that I think is just -- and their
2 complaints, their complaint about his, you know, angry words
3 towards his wife, you know, I don't have the context, I don't
4 know how it happened. The words don't sound great. But nothing
5 has happened. I mean nobody has hurt anybody.

6 And all I'm seeing is, I know that he was working at
7 a place adjacent to where his wife lived, his wife lived with
8 his child. I've seen a video of the child waving and blowing
9 kisses to her father out the window, because he wasn't allowed
10 into the home.

11 And I also know that one of the complaints that she
12 made was that he had the child taken out of the country without
13 her consent. And he produced a document that was notarized
14 with her signature on it, saying that he had permission to take
15 her out of the country.

16 So there's a lot of stuff going on here, and to take
17 his liberty away from him when I think that there are multiple,
18 multiple things in play, I think is very unfair. Especially
19 when his lawyer hasn't had a chance to talk to him, hasn't had
20 a chance to get together the documents that would show at least
21 that he was in the hospital today. That there is in fact a
22 notarized agreement, as I understand it, that says that he was
23 allowed to take the child out of the country. The child is back
24 in the country.

25 I don't know all the details and to remand him

1 without me having an opportunity to speak with him, I don't
2 know what the fire is. And why this had to happen the way it
3 happened. We started the day with me telling me that he said
4 he went to the hospital and that was a lie.

5 MR. MAFFEI: No, Your Honor, if I may. That's not
6 accurate.

7 THE COURT: Well, hold on.

8 MS. KELLMAN: It wasn't accurate, correct, it wasn't
9 accurate. It was a --

10 MR. MAFFEI: No, no, I didn't --

11 MS. KELLMAN: He was at the hospital, Pretrial knew
12 he was at the hospital. I didn't know he was at the hospital.
13 But Pretrial knew. Pretrial knew when he got there, Pretrial
14 knew when he left. Pretrial knew when he got home. He's not
15 - the Government is under the impression that any time he has
16 an opportunity he's going to run. He's been out for a year
17 practically and he hasn't run.

18 So I don't know why we have to keep going through
19 this drill. He has family here. You know, I've never been
20 married, Judge. But I know that you know, over the years I've
21 heard many of my client have angry words with their spouses and
22 ex-spouses, especially when they're in the process of
23 separating. Which is why I don't do divorce work.

24 But I don't know what the record is right now. And I
25 think for the Court to make a decision without hearing the full

1 story, I think is very unfair to this defendant, who is wearing
2 a bracelet. He can just go home and sit still until I have an
3 opportunity to get up to speed and be able to address the
4 Court.

5 THE COURT: Counsel, you had something?

6 MR. MAFFEI: Yes, Your Honor. Just to correct a few
7 inaccuracies in what Ms. Kellman brought to the Court's
8 attention. When I spoke to her earlier today I did not say
9 that the defendant lied about being in the hospital. That's
10 completely inaccurate.

11 The factual scenario here is when the Court issued
12 the warrant week the Government notified Pretrial Services that
13 we were looking to arrest the defendant. Pretrial Services
14 said we can arrange for him to appear here and the agents can
15 then take him into custody to avoid any potential conflicts.
16 And he already would be in the building. And then we would
17 notify counsel at that time.

18 So the defendant knew that he was supposed to be here
19 this morning at 10 o'clock. This morning, prior to that at
20 some point the defendant went to the hospital, and then told
21 Pretrial that he would not be showing up because he was going
22 to a doctor's appointment later in the day. Ultimately the
23 Government and the agents discussed and we decided at this
24 point instead of waiting for the defendant to determine when he
25 wanted to come to court, they would go to the house and attempt

1 to make an arrest.

2 They were at the defendant's residence, no one was
3 answering the door. But they knew from the location
4 information that the defendant was at the residence. And then
5 at that point I contacted Ms. Kellman, explained the situation
6 to her and said, would she reach out to her client and let him
7 know that the agents were there looking to place him under
8 arrest pursuant to a warrant of this Court.

9 So just so it's clear, the Government never alleged
10 that the defendant lied about being at the hospital. It was
11 that he knew he was supposed to be here and had elected not to
12 show up at 10 o'clock, whether it was for medical reasons or
13 not. There was still an active warrant, the agents placed him
14 under arrest.

15 Now sort of the heart of the issue, just to go back
16 to a couple of things. The defendant, the idea that he's on a
17 location monitoring and then the Court can be fine that
18 everything is okay, that's exactly why we're here, is because
19 that combination of conditions which the Magistrate Judge
20 originally released the defendant on, is clearly not sufficient
21 to protect the public, because he's making threats. These are
22 the exact kind of crimes that people commit while on location
23 monitoring.

24 And now Your Honor may say, well Mr. Maffei, the
25 defendant is in his house, how can be a threat to anyone. Well

1 --

2 THE COURT: Mr. Maffei, don't guess what I'm going to
3 ask you.

4 MR. MAFFEI: I apologize.

5 THE COURT: Just say -- go ahead.

6 MR. MAFFEI: People may think that, not necessarily
7 Your Honor, but that may a question that some individuals would
8 have. Well the victim provided the Government with not only
9 copies of the text messages, but also Ring doorbell camera of
10 the defendant's son and another member of his family showing up
11 at her residence, after that order of protection was issued.

12 There was also contacts made on his behalf by those
13 individuals. And these are just chronologically if you can see
14 at the bottom of this text, it's after there's a Det. Scrementi
15 (phonetic), that's actually a member of the NYPD, who the
16 Government spoke to, and he said he was looking to make a
17 probable cause arrest of the defendant if he encountered him or
18 if he was in Queens County or by the victim's residence. So I
19 don't know that there aren't NYPD charges coming.

20 But as, based on all the information available to the
21 Government, it was clear that the defendant was engaging in a
22 course of conduct to intimidate an individual via electronic
23 means, which is a crime under New York State Law, and it was at
24 that point when we determined that the defendant was
25 continually committing crimes while on release that we asked

1 the Court at this point to issue a warrant and remand him.

2 And there's nothing to indicate that there's any
3 other less restrictive means that's going to stop him from
4 doing these things.

5 THE COURT: Okay, the defendant had his hand up.
6 We'll get to -- I'll get to you in a second. The text that I
7 just read aloud from your letter, which is the May 24th letter
8 on page 6, when did that happen? What's the date of that text?

9 MR. MAFFEI: That text was, it was certainly during
10 the pendency of while the defendant was on release. It was --

11 THE COURT: That's my concern. Yes, I want to know
12 that, go ahead.

13 MR. MAFFEI: I just need to find the exact date.
14 It's sometime after the original request for the order of
15 protection, which was in, I believe it was in April of 2023.

16 THE COURT: So within the last month or so.

17 MR. MAFFEI: And oh, I'm sorry, one other -- yes,
18 certainly, within the last two months for sure.

19 THE COURT: Okay.

20 MR. MAFFEI: Definitely the last month or so. The
21 other thing I also wanted to point out, the Government is never
22 alleging or claiming in this, nor has Victim 1 ever claimed
23 that the defendant's child and her child were taken out of the
24 country without her permission. It's the opposite. That once
25 the child was out of the country, and as we sort of laid out in

1 the letter, the defendant started calling related to people --
2 calling people related to Victim 1's job, while she was at this
3 job training, it was when she returned from the training that
4 he refused to allow the child to come back. And Victim 1
5 herself flew to Columbia to retrieve the child. She's provided
6 plane tickets and information that corroborates that that
7 occurred to the Government, amongst those text messages.

8 But again, it's not that the child was taken without
9 permission, but that once out of the country the defendant
10 would not allow the child to be returned, and she had to go
11 retrieve the child herself. When that wasn't their original
12 plan. Obviously whether or not that arises to a crime versus a
13 family court matter, it's certainly within this course of
14 conduct I would submit as part of an ongoing crime. But
15 whether it in and of itself, I don't know if I can say that.

16 THE COURT: Right, so Ms. Kellman, I want to go to
17 you next. Because there's something -- I want to make sure
18 we're absolutely fair to everyone here. Your client has raised
19 his hand suggesting he wants to contribute something to the
20 conversation. Now, I'm always reluctant to allow a defendant
21 to do that or, I mean he can say what he wants, but it
22 sometimes doesn't turn out well. Would you rather speak to him
23 privately or handle this some other way?

24 MS. KELLMAN: I would very much like to speak with
25 him before he speaks in court.

1 THE COURT: Okay.

2 MS. KELLMAN: Thank you, Judge.

3 THE COURT: Okay. I'm just trying to think how we
4 can do that.

5 (Court and Clerk confer)

6 THE COURT: You don't have your cell phone on your,
7 right, sir?

8 THE DEFENDANT: I can use Matt's cell phone. Used it
9 earlier.

10 THE COURT: Which phone is that, sir?

11 THE DEFENDANT: One of the agents here.

12 THE COURT: Okay. Is that okay? Why don't you step
13 into one of the witness rooms right out here. Back there, even
14 better. Sorry. Ms. Kellman, we're letting him step into a
15 different room so he can make a call to you. And you can call
16 her and decide what you want to do. All right?

17 MS. KELLMAN: And Judge, do I hang up here and then
18 call back in?

19 THE COURT: Yes, why don't you do that, sure.

20 MS. KELLMAN: Okay, I'll do that, thank you, Judge.

21 THE COURT: We'll wait.

22 MS. KELLMAN: I appreciate that, thank you, Judge.

23 (Recording paused @ 3:09:39)

24 (Recording resumed @ 3:15:33)

25 MS. KELLMAN: I did very much appreciate it, Your

1 Honor. Your Honor, this goes back a little ways and I'd like
2 to just give the Court a little background that I know of. And
3 again this is not a full record because I've not had an
4 opportunity to really go through all the material that my
5 client has.

6 But I remember, and I can't say -- but a month or so
7 ago, my client reached out to me, his wife had gone to
8 Minneapolis for some job training, I think she works for Delta
9 Airlines, perhaps. And she had to go for a job training. When
10 she was out there she got quite ill. And she phoned him and she
11 asked him to come out there. And he said I don't think I can go
12 to Minneapolis because I have a bracelet on. And so he called
13 me and he asked if I could get permission for him to go. But I
14 didn't think that the Court would give him permission to go,
15 but that he should check with Pretrial.

16 As I understand, and I think that Ms. Supremo
17 (phonetic) is in court, as I understand it, he reached out to
18 Pretrial and Pretrial told him what I would expect they would
19 say, which is talk to your lawyer. And this is something we
20 can't do without the Court's permission either.

21 At the end of the day, I spoke to my client and I
22 said this is the perfect opportunity to show that you abide by
23 the Court's rules and right now there is nothing that allows
24 you to go. And his wife was convalescing, and so he agreed not
25 to go.

1 Now, when she went, he had agreed that because she
2 wanted to go and he couldn't take care of the child because he
3 was working, that they agreed that they would send the child to
4 family that he has in Columbia. And they also agreed that his
5 son would take the child down to Columbia and pick the child
6 up.

7 When his wife came back from Minnesota she was
8 feeling better and she was upset, very upset with him because
9 he called me by the day, by the hour, saying that she was
10 furious that he didn't go out to Minneapolis to help her when
11 she needed his help. And so she on her own went down to
12 Columbia to retrieve her son, the child, even though the child
13 was down there with her permission, and there was never an
14 allegation that the child was going to stay there. In fact his
15 son had gone back down, which was the agreement, to bring the
16 child back.

17 When she got there the family down there was very
18 surprised. They called him and they said why is she here, she's
19 all upset and said I think there was a crossed wire. Just be
20 nice to her. They apparently took her to dinner. They invited
21 to spend the night. She spent the night and they all flew back
22 the next day together.

23 So are there angry words here, there are of course
24 angry words. And there are threatening words. And again,
25 I've never been married. I know that from the very short time I

1 did matrimonial work, people say really stupid things to each
2 other when they're upset.

3 The reality is, he's abided by Your Honor's rules.
4 His wife insisted that he come to Minneapolis. I told him that
5 I thought it was ill-advised and did not ask Your Honor for
6 permission to do that. He abided by my judgment in that
7 respect. He also spoke with Pretrial, which is what he should
8 have done.

9 He also reached out to Pretrial early this morning
10 and said he had terrible pains and he needed to go to the
11 hospital. Pretrial knew that he was going to the hospital.
12 Pretrial knew when he came back. I assume Ms. Suprimo will
13 confirm all of this. He had no way of knowing he would have
14 been arrested if he went in this morning. But he did say he
15 had pain. He went to the hospital. He said there needed to be a
16 follow-up.

17 I just think that there is, you know, a real concern
18 by the Government that he's going to flee. And there's been no
19 evidence of his intention to flee whatsoever. He has been
20 abiding by the terms of his supervision. He has reached out
21 every time he's had a question about it. And when Pretrial
22 could deal with it, they dealt with it. And when they couldn't
23 he reached out to me.

24 Pretrial has been very responsible about this, very
25 reasonable about it. And very firm. I mean they've made it

1 clear to him what they can do, what they can't do. And what he
2 can do and what he can't do. And I don't think that Pretrial
3 would take a contrary view.

4 I know that I've spoken with Ms. Suprimo. She's
5 expressed her concerns to me. And we've worked together so that
6 there isn't a problem. And there hasn't been a problem. And
7 could we have a hearing about whether or not the son was there
8 and what the son witnessed? Yes. If the woman took the stand,
9 could I ask her whether or not she was invited to dinner,
10 whether or not she spent the night, whether or not there was a
11 written agreement that he would -- that the child would go down
12 there so that she could go to her course, her training course
13 because he couldn't take care of the child while she was away,
14 because he was working.

15 There seems to be a number of very, very, very
16 reasonable explanations for all of this. And I don't know why
17 the remand comes when it does, and why the Government has in
18 every discussion I've had with them about his bracelet, they
19 are convinced that he's going to flee. And yet he hasn't made
20 any attempt to flee. He hasn't done anything that he wasn't
21 supposed to do.

22 And you know, in my years of doing this, Judge,
23 sometimes defendants get squeezed like this because somebody
24 thinks they can cooperate and I don't know what the
25 Government's agenda is here. But if their agenda is to make

1 sure that he appears in court and that ultimately resolves the
2 case, he's done everything that the Court has asked him to do
3 to resolve his -- you know, to follow the Court's directions
4 and he's talked to us repeatedly about how to resolve the case.
5 He's made it clear he doesn't intend to go to trial, we're
6 trying to work out a disposition with the Government. If he
7 wanted to do that -- if he wanted to flee he wouldn't be doing
8 that. He wouldn't be sitting with us for hour after hour. And
9 going through discovery with us and making sure that we
10 understand all these different transactions, they're very
11 complex.

12 So I just don't see what the urgency is here. I
13 don't see the immediacy. And I do say that when married couples
14 fight, they say stupid things, they do stupid things. It
15 doesn't mean at the end of the day that anybody's in any kind
16 of harm. He hasn't violated the terms of the protective order.
17 I just think this is all premature.

18 And especially when he says -- and I don't know if
19 the Marshals or the agents have the discharge papers from the
20 hospital, but apparently there was, he tells me that there was
21 some follow-up that was required with an MRI. And that they
22 gave him a prescription for medication which he dropped at CVS
23 but hasn't had an opportunity to collect the prescription. I
24 don't know what's wrong with him, Judge, because I haven't had
25 that conversation with him yet. But to do this on the fly like

1 this, when the one thing we know is that he has abided by the
2 Court's instructions to be respectful of the Court and follow
3 the rules that are set by Pretrial, vis-a-vis his bracelet.
4 And he's done that, Judge.

5 THE COURT: Okay.

6 MS. KELLMAN: So I would ask that whatever -- the
7 status quo --

8 THE COURT: Stay with me for one minute, Ms. Kellman.
9 I just want to go back to the Government for a second on this.
10 I remember the situation with the releasing home detention
11 application, and so forth. I just didn't really have it in a
12 time frame here. It appears there's was an April 13th 2023
13 motion to eliminate home detention. Fair?

14 MR. MAFFEI: Yes.

15 THE COURT: And according to your letter, a week
16 earlier you had this Victim 1 calling the police saying that
17 this defendant was outside her house banging on the door.
18 Fair?

19 MR. MAFFEI: Chronologically, yes.

20 THE COURT: If that's true, that would have been a
21 violation of home detention in addition?

22 MR. MAFFEI: If he was --

23 THE COURT: At her house banging on the door. That's
24 not his house, that's her house.

25 MR. MAFFEI: No --

1 THE COURT: Right?

2 MR. MAFFEI: Well, yes and no. Here's why, Judge.

3 THE COURT: Or is this the thing about the employment
4 being next to --

5 MR. MAFFEI: Yes, it's the employment is literally --

6 THE COURT: Well, all right, hang on a second. Even
7 if his place of employment was next door to her house, he
8 shouldn't have been at her house banging on the door, fair?

9 MR. MAFFEI: Correct, and Your Honor --

10 THE COURT: So Ms. Kellman, Ms. Kellman, when you
11 repeatedly assure me that this defendant has been following all
12 this Court's instructions, I'll get back to the notion whether
13 the text I read aloud earlier constitutes a flagrant violation
14 of everything that is the spirit of the order, but there's
15 actual physical violations here, right, I mean the Government
16 has documented instances where he wasn't where he was supposed
17 to be. Am I wrong about that?

18 MS. KELLMAN: I think that there's a little confusion
19 about that, Judge. I've seen a picture of where he was
20 working. When they say he was next door, he wasn't in the
21 building across the street or down the street, he was working
22 in the empty yard that is, abuts the building that she's in.
23 You know, the daughter would wave to him when he was working in
24 that yard, in that area where they were building. It literally
25 was reaching distance. It was, I'll describe it as a backyard

1 of that piece of property. It's not like some other building
2 somewhere or down the street. It's literally on the property.
3 He was working on the property. And I've seen videos of his
4 little daughter waving to him from that window while he was
5 down in the yard working.

6 So I think that it's not fair to say that he was not
7 obeying the order of the Court because in fact he was at work.
8 And he was waving at his daughter, you know, at his daughter at
9 the time. And even if he was knocking on the door, he's still
10 at the same place. I don't think you can separate where he
11 works with where his wife lives. They appear to be the same,
12 from the photo I've seen, they appear to be the same piece of
13 property. So I don't think it's that cut and dry, I really
14 don't.

15 THE COURT: I mean that does seem the strangest
16 coincidence in history, right.

17 MS. KELLMAN: That's why I asked to see a picture,
18 Judge, because I wanted to understand it. And if I were able
19 to be there, with a picture, to show it to the Court, on
20 Wednesday or Thursday or Friday, perhaps Your Honor would
21 understand it. And I would ask that he be allowed to return
22 home so he can get whatever medication he needs, get whatever
23 MRI he needs. I don't know what's wrong with him. And I don't
24 know that he knows yet. Because he needs an MRI.

25 But it just seems to me that -- I can Your Honor's

1 concern. If he was supposed to be at work and he wasn't at
2 work and he was near her house, but it's the same piece of
3 property. I don't understand it, but I've seen the pictures.
4 And I've seen the construction site that's right there. And
5 I've seen his daughter waving at him right from her bedroom --
6 well I don't know if it's her bedroom, but from a window just
7 above the site. So it's not like he was acres away or yards
8 away, he was right there. That's where he was working.

9 How that comes about, I don't know. Maybe I would
10 know if I spent a little more time with my client. But today,
11 we haven't had any chance to talk other than me telling him
12 that the agents were outside and that he should go outside. And
13 he did. Mr. Maffei had called me and said the agents are
14 outside your client's door. I called the house. He responded,
15 I tell him that they're outside. He apologized, that he had
16 been sleeping. He went outside and he --

17 THE COURT: Okay. Mr. Maffei, you had something else?

18 MR. MAFFEI: Well, a couple of things, Your Honor.
19 Just in regards to the premises, we never disputed. What Ms.
20 Kellman is saying is correct. They are adjacent. What I think
21 is important here is that when the NYPD were first called there
22 on April 5th of this year, the victim reports that I've
23 obtained a family court order, I've tried to get him served, he
24 knows about it and he's hiding. He's trying to avoid service.
25 So that's the reason the NYPD doesn't go and try and lock him

1 up that day. His car is there. But he's magically not there
2 at his job, where he went don't know.

3 What happens from there is that he goes back again
4 and again he has not yet been served, and again the NYPD are
5 called and he's banging on the door. And that's on April 7th.
6 And again they're called and he's again -- but when they show
7 up he leaves. This is someone who knows how to stay out of
8 trouble. He knows he's breaking the law, he's avoiding the
9 consequences.

10 What ultimately happens is he sends his son and his
11 brother to her residence, once he's no longer employed there,
12 because I believe by March 31st he's not longer employed at
13 that location. So now he's not actually going there for work.
14 He's going there for his own purposes. So then as Your Honor
15 pointed out, he may not be violating the order of protection,
16 but at that point on that April 5th encounter when he goes
17 there, he's violating the conditions of this Court's release,
18 in that he's not actually going there for work because he's
19 already been terminated by the employment.

20 But when he sends his brother and his son there, and
21 that's captured on Ring doorbell camera which is, is date
22 stamped for April 16th 2023 I believe is one of the ones where
23 the son is there, that is violations of the order of protection
24 by third party contact. Going further than that there's text
25 messages that indicate -- from the son that's saying my father

1 knows about the order.

2 THE COURT: Hang on, hang on. Third party contact
3 with Victim 1 is prohibited by his, the terms of his --

4 MR. MAFFEI: I believe it is, yes.

5 THE DEFENDANT: No, no.

6 MR. MAFFEI: And if it's, and even if it's not, Your
7 Honor, the son texts, my father is aware of the order. And now
8 he wants to get it -- he wants the stuff dropped.

9 And at the end of the day, it doesn't -- we're all
10 dancing around what the main point is. The main point here is,
11 he's threatening this woman over text, and Ms. Kellman hasn't
12 denied it at all that those texts were sent, minimize it as
13 heat of the moment. But the point is this is --

14 THE COURT: Wait, wait, we're not all dancing around
15 the issue.

16 MR. MAFFEI: No, I'm sorry.

17 THE COURT: I read the text, right?

18 MR. MAFFEI: I apologize, Your Honor.

19 THE COURT: Okay. Go ahead.

20 MR. MAFFEI: I mean the arguments of counsel have not
21 addressed that that is the issue. That is the real concern
22 here. Right, if this was just a guy knocked on the door and
23 said, hey can I see my kid, we're not here. But that's not
24 what he did.

25 THE COURT: No.

1 MR. MAFFEI: And that is dangerousness. And the idea
2 that this isn't ripe for the Court, what, we should wait until
3 someone is hurt? That's not realistic. This is a violation of
4 New York State Law. It's aggravated harassment, very clearly,
5 in violation of the statute. His terms of release here, I'm
6 sure didn't allow him to commit future crimes. He's broken
7 that, blatantly. And he should be remanded.

8 And again this is a case in which the Government
9 initially sought release, that the Magistrate Judge setting
10 bond set an extremely high bond. And that was -- and the
11 electronic monitoring and that those were the least restrictive
12 means. And even under those conditions, this defendant has
13 still elected to break the law.

14 THE COURT: All right, Ms. Kellman, anything else?

15 MS. KELLMAN: You know, I would only say, Judge, that
16 there was -- and I certainly don't mean to minimize any kind of
17 angry language between these individuals. But all of this is
18 occasioned by the fact that this woman lied about the fact that
19 he had permission to send the child out of the country. That
20 that was something they agreed upon so that she could go and do
21 her training. So now the fact that -- and she went down there
22 of her own volition. Nobody ever said that the child wasn't
23 coming back. In fact the son had gone there to bring the child
24 back. She was treated well when she was there. She was
25 furious at him for not coming out to Minneapolis. And all of

1 this developed from that incident.

2 And his anger comes from her lying about the fact
3 that he had said that the child went there without permission.
4 Which is the first thing that she said. And then that, then
5 when there are documents showed up that contradicted that
6 saying that he was never going to bring the child back. Also a
7 lie because he already sent his son to go get the child.

8 And that made for very bad feelings on both sides. He
9 was being lied about in a very, very harsh way. And he
10 responded harshly, inappropriately and harshly. But so did
11 she. And she instigated this by being furious at him for -- I
12 mean he begged me, Judge, for two days, I'm begging you, he
13 said, please get permission for me to go to Minneapolis. And I
14 was the one who said to him, I don't think it's something that
15 you have to ask the Court, that I would ask the Court about, I
16 think there are bigger issues here. And we should save our,
17 you know, the need for carve outs in this incident and in the
18 order, in the bail order, for bigger incidents than this.
19 She's well now. And she had turned the corner whatever her
20 illness was, which is evident by the fact that she then
21 traveled on her own to Columbia.

22 But his fury, and it is fury, and I hear it, develops
23 from the fact that she lies to the authorities to get a
24 protective order, to say that he refused to bring -- because
25 she says he refused to bring the daughter back from Columbia.

1 And this just wasn't the case.

2 And it put him in a terrible legal position. It put
3 him in a terrible emotional position. And he acted poorly when
4 he spoke, but he didn't run away. And he hasn't absconded.
5 And I think that what the Government is asking has everything
6 to do with their ultimate concern, which is that he's going to
7 flee, when there's no evidence whatsoever that he intends to
8 flee.

9 And this is just another tool in their arsenal of
10 ways to argue to Your Honor that it's their intention -- that
11 whatever it takes they're going to remand him because they
12 think he's going to flee, even though he's made no effort and
13 no attempt whatsoever to flee.

14 THE COURT: Okay.

15 MS. KELLMAN: I don't know what else I can say.

16 THE COURT: All right, I've heard enough. So, let me
17 just reset where we are here. This defendant has been on
18 supervision for some time. There have been prior applications
19 to this Court about the terms and conditions of that, which
20 makes me somewhat more familiar with the matter. But to begin
21 with, this of course is a presumption case, I'm right about
22 that, yes? No?

23 MS. KELLMAN: I don't think it's a presumption case.

24 MR. MAFFEI: I don't --

25 THE COURT: What's the underlying charge?

1 MR. MAFFEI: What?

2 THE COURT: What's the underlying charge? I know
3 we're not talking about that today.

4 MR. MAFFEI: The underlying charge is a disaster
5 relief fraud and wire fraud and money laundering.

6 THE COURT: My bad, my bad, sorry. Okay. Forget that,
7 scratch that. It is not a presumption case. Doesn't really
8 matter because we are where we are.

9 There are risks of flight that the Government
10 identified. In attempt to deal with that the Government set a
11 substantial bond and substantial conditions. Here's the bottom
12 line. Ms. Kellman, I recognize it's a little unfair to you in
13 the sense that you're not here and so forth. So I'm going to
14 say that anything I say today you're free to move to
15 reconsider, I'll be here. You say you want to talk about this
16 in a couple of days. That's fine.

17 But one thing that a defendant who is out on a
18 substantial bail package doesn't have the option to do, and
19 that's to be sending texts to people, directing the delivery of
20 travel documents. My father should have those passports
21 tonight. Threaten, making threats. And saying that nothing
22 will protect you from my fucking rage. That's what the text
23 says. I can't do anything with that. Someone on bail from
24 this Court cannot, cannot engage in such behavior.

25 Now, Ms. Kellman, you'd like to convince me there's a

1 larger context, you can't do that today, I understand that.
2 But I have no choice but to remand the defendant today. And if
3 you have more that you'd like to bring up with this, I mean
4 there are many, many concerning issues here that the Government
5 has raised. Whether he still has his job, how in the world he
6 had a job that's right next to this woman's house who he used
7 to abuse and he's banging on the door. There's lots and lots
8 and lots of problems.

9 But I have to tell you, the text sort of has me at
10 hello. I see both a risk to the community, risk of danger and a
11 risk of flight, based on what's before me today. But as you
12 know, I don't prejudge anything. If you have more information,
13 more context you want to bring it to me in the next couple of
14 days, I'll be here. And we can put this back on.

15 So for now, I'm remanding the defendant. And so
16 that's a remand pending trial. But again, without prejudice to
17 Ms. Kellman coming forward with other information.

18 Anything else I can do for the parties today?

19 MR. MAFFEI: No, Your Honor, I believe we previously
20 had scheduled a status conference for July -- sometime in July.
21 There is the outstanding superseding indictment if the defense
22 counsel -- we addressed it with her. Ms. Kellman indicated she
23 would rather just do with that July date. If this changes it
24 and they want to do it sooner, obviously that's something we
25 could discuss as well.

1 THE COURT: Ms. Kellman?

2 MS. KELLMAN: No, I think that day is appropriate for
3 the arraignment, that's fine with me, Your Honor.

4 THE COURT: Okay. All right, good. And Ms. Kellman
5 again --

6 MS. KELLMAN: I do have one question, and that is, if
7 his family were to drive the medicines out -- well I don't know
8 where he's going to be housed actually. But assuming then
9 he'll be at least in Central Islip for a short period of time.
10 Is it possible that his family on Long Island can bring the
11 medicine to the US Marshal. Again I don't even know what it is.

12 THE COURT: I think -- I'm pretty sure, and the
13 Marshal can correct me if I'm wrong. I think the answer to
14 that is no, am I right about that?

15 MARSHAL: If it's just antibiotics (indiscernible-out
16 of range of microphone) that's nothing unusual --

17 THE COURT: Do you know what the medication is, Ms.
18 Kellman?

19 MS. KELLMAN: I don't, maybe my client does. I can
20 call his wife quickly and find out.

21 THE COURT: What are you on?

22 THE DEFENDANT: Antibiotics.

23 THE COURT: Antibiotics? Okay, all right, do you know
24 which antibiotic you're on?

25 THE DEFENDANT: (indiscernible)

1 THE COURT: He has it. Okay. I'm going to tell the
2 Marshal to convey that information to the prison. If you need
3 an order to follow-up, for them to look at that. But he should
4 get that as soon as possible.

5 MARSHAL: (indiscernible)

6 THE COURT: All right, good, anything else?

7 MS. KELLMAN: Thank you. No nothing.

8 THE COURT: Ms. Kellman, if you have anything else to
9 file you know where to reach me. All right?

10 MS. KELLMAN: Yes, thank you very much, Judge.

11 THE COURT: All right. Have a great day, thank you.

12 MR. MAFFEI: Thank you, Judge.

13 * * * * *

14 **C E R T I F I C A T I O N**

15 I, **PATRICIA POOLE**, court approved transcriber,
16 certify that the foregoing is a correct transcript from the
17 official electronic sound recording of the proceedings in the
18 above-entitled matter.

19

20 /S/ PATRICIA POOLE

21 TRACY GRIBBEN TRANSCRIPTION, LLC

DATE: July 6, 2023

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